



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

**DRAFT**

Date Amended:	<b>08/17/05</b>	Bill No:	<b>AB 164</b>
Tax:	<b>Property</b>	Author:	<b>Nava</b>
Related Bills:	<b>AB 18 (La Malfa) SB 457 (Kehoe)</b>		

**BILL SUMMARY**

**This analysis is limited to the homeowners' exemption portion of this bill.**

This bill would, in part, allow persons whose homes were damaged or destroyed in various disasters occurring in 2004 and 2005 to retain the homeowners' exemption on their property while they are in the process of rebuilding.

**Summary of Amendments**

The August 17 amendment adds double-joining language to two related bills: AB 18 (La Malfa) for the Shasta County wildfires of August 2004 and SB 457 (Kehoe) for the severe rainstorms, floods and mudslides in Southern California.

**ANALYSIS**

**Current Law**

Article XIII, Section 3(k) of the California Constitution exempts from property tax the first \$7,000 of the full value of a dwelling when occupied by an owner as his or her principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied or becomes vacant or is under construction on the lien date (January 1), the property is ineligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on January 1, 2005 are not eligible for the homeowners' exemption on the property tax bill for the upcoming fiscal year (2005-06). A home destroyed after January 1, 2005, would continue to be eligible for the exemption on the 2005-06 property tax bill. However if the home has not been rebuilt and occupied by the next lien date, January 1, 2006, it would not be eligible for the homeowners' exemption on the 2006-07 property tax bill.

**Proposed Law**

This bill would, in part, amend Section 218 of the Revenue and Taxation Code to provide that dwellings qualified for the homeowners' exemption that were destroyed by specific disasters as noted below will not be disqualified as a "dwelling" or be denied the

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homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

- **Shasta Wildfires.** Homes eligible for the exemption prior to August 11, 2004 that were damaged or destroyed by the wildfires and any other related casualty that occurred in Shasta County in the Governor-declared disaster of August 2004.
- **Southern California Storms, Floods & Mudslides.** Homes eligible for the exemption prior to December 28, 2004 that were damaged or destroyed by the severe rainstorms, floods, mudslides that occurred in Southern California in the Governor-declared disasters of December 2004, January, February and March of 2005, and June 2005.

### Background

For some prior disaster situations, legislation has been enacted to extend the homeowners' exemption to temporarily damaged or destroyed homes.

Disaster	Year	Legislation
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch. 1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

### COMMENTS

1. **Sponsor and Purpose.** With respect to the homeowners' exemption portion of the bill, the author is sponsoring this measure to provide some financial relief to persons whose homes were damaged or destroyed by Governor declared disasters occurring in 2004 and 2005.
2. **Key Amendments.** The **August 17** amendment adds double joining language to incorporate the amendments made by AB 18 and SB 457. The **June 15** amendment added the month of March. The **March 8** amendments to Section 218 incorporate suggested amendments made in the prior analysis to rephrase the language related to restricted access to a dwelling because of washed out or damaged roads. While a dwelling may not be physically damaged or destroyed by washed out or damaged roads, it may be temporarily uninhabitable because damage to the roads to prevents access to the property.
3. **This bill would allow homeowners whose residences were damaged or destroyed as a result of the August 2004 fire or the winter storms, floods, and mudslides to retain the exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the lien date (January 1, 2005) are technically ineligible for the exemption for the upcoming fiscal year under current law. Last year legislation was introduced to extend the homeowners' exemption to homes destroyed in the Southern California fires where

thousands of homes were totally destroyed in October and November of 2004 and could not have been rebuilt and occupied by January 1, 2005 – just a few months later. This bill was later amended to include two other governor-declared disasters.

4. **Homeowners' Exemption – Disaster Impact.** The Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact" available at [www.boe.ca.gov](http://www.boe.ca.gov) )
5. **Affected counties:** Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Shasta and Ventura
  - **Shasta County.** On August 23, 2004, the Governor proclaimed Shasta County to be in a state of emergency due to wildfires that began on August 11.
  - **Southern California.**
    - On January 12, 2005, the Governor proclaimed the County of Ventura to be in a state of emergency as a result of a series of severe rainstorms in that area that commenced on January 6, 2005. Subsequently, on January 15, 2005, the Governor additionally proclaimed the Counties of Riverside, Santa Barbara, Los Angeles, Kern, San Bernardino, Orange and San Diego to be in a state of emergency as a result of storms that began on December 28, 2004. On February 4, 2005, the President of the United States declared a major disaster for California. After the declaration, residents and businesses in the counties of Los Angeles and Ventura that suffered damages and losses could be eligible for federal aid.
    - On March 16 2005, the Governor proclaimed the counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura to be in a state of emergency due to the continued series of severe rainstorms.
    - In June 2005, additional homes in Southern California were damaged in mudslides that were deemed to occur as a direct result of the winter rainstorms for which the Governor had proclaimed a state of emergency.
6. **Most of the damage took place after January 1.** With respect to the Southern California storms, it appears that homes were not damaged and destroyed until *after* the lien date. Consequently, it appears that these property owners will not lose the homeowners' exemption on their property tax bill for the 2005-06 fiscal year. However, this bill would apply to any home that was not rebuilt and occupied by the next lien date – i.e., January 1, 2006, for the 2006-07 fiscal year.

**COST ESTIMATE**

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes. These costs are estimated to be under \$10,000.

**REVENUE ESTIMATE**

***The revenue estimate is limited to the homeowners' exemption portion of the bill.***

**Background, Methodology, and Assumptions**

Existing property tax law provides for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined. This bill would provide that any dwelling that qualified for the exemption prior to a specified date and that was damaged or destroyed as a result of specified disasters may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

**Shasta Wildfires.** Based on information from the Office of Emergency Services, 111 homes were totally destroyed as a result of the fires of August 2004 in Shasta County. According to the Shasta County Assessor's Office, 49 of these homes were owner-occupied principal places of residences eligible for the homeowners' exemption. If all of these homes were not rebuilt and occupied by the following lien date of January 1, 2005, then the revenue loss for the 2005-06 fiscal year would be approximately \$3,800. (49 homes destroyed @ \$7,000 assessed value x 1.102 % tax rate).

**Southern California Storms, Floods & Mudslides.** Based on information from the Office of Emergency Services and local county assessors we estimate that 83 homes were totally destroyed as a result of the winter storms and June mudslides as noted below. This bill would have no revenue impact for the 2005-06 fiscal year since these homes were not destroyed until after the lien date. If all of these homes are not rebuilt and occupied by the next lien date, January 1, 2006, then the revenue loss for the 2006-07 fiscal year would be approximately \$6,235.

County	Homes	Exemption	Exempt (# x \$7,000)	Average Tax Rate	2005-06*	2006-07 Subvention
Kern	0	N/A				\$0
Los Angeles	20	\$7,000	\$140,000	1.09%	No Impact*	\$1,527
Orange	26	\$7,000	\$182,000	1.04%	No Impact	\$1,893
Riverside	2	\$7,000	\$ 14,000	1.10%	No Impact	\$153
San Bernardino	8	\$7,000	\$56,000	1.11%	No Impact	\$619
San Diego	9	\$7,000	\$63,000	1.07%	No Impact	\$672
Santa Barbara	0	N/A		1.10%	No Impact	\$0
Shasta	49	\$7,000	\$343,000	1.10%	\$3,800	\$3,800
Ventura	18	\$7,000	\$126,000	1.09%	No Impact	\$1,371
<b>TOTALS</b>	<b>132</b>		<b>\$924,000</b>		<b>\$3,800</b>	<b>\$10,035</b>

\*Disaster Damage is post lien date – property retains exemption for 2005-06 fiscal year under existing administration of the homeowners' exemption.

**Revenue Summary**

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The local jurisdictions are reimbursed by the state for their losses due to the homeowners' exemption (HOX). This bill would require the state to continue to subvene these amounts. Based on the calculations above, we estimate the revenue impact to be about \$3,800 for 2004-05 and \$10,000 annually in 2005-06. The impact will decrease over time as these homes are rebuilt and the owners are once again eligible for the homeowners' exemption under existing law.

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